



APPLICANT'S REQUEST FOR  
RECONSIDERATION OF  
PETITION TO REVIVE

Application #	10/622,172
Confirmation #	unknown
Filing Date	July 18, 2003
First Inventor	Shapiro
Art Unit	3618
Examiner	Bridget Avery
Docket #	unknown

Commissioner for Patents  
Washington, D.C.

S I R:

Applicant files this Motion for Reconsideration and states as follows:


1. Petitioner and applicant is responding to the petition dismissal of October 14, 2005.
2. The filing of the Petition to Revive inadvertently omitted applicant's original election/restriction of April 13, 2005 which applicant believed was mailed April 13, 2005 to the U.S. Patent & Trademark office.
3. Applicant filed a certificate of mailing this document on April 13, 2005 within the time frame called for by the election and restriction of March 29, 2005 filed by Examiner Avery.
4. Petitioner and applicant believes that the entire delay in filing the required election/restriction was unintentional.
5. As outlined in the original Petition to Revive, applicant signed a mailing certification on April 13, 2005 believing that the election and restriction was placed in U.S. mail to the United States Patent & Trademark Office. Applicant notes that he is an attorney licensed with the Virginia State Bar (Virginia State Bar No. 24324) and that when an attorney signs a mailing certification, it is an affirmation under Virginia Law governing lawyers that the document was so dispatched.
6. Actual events are evidence that applicant believed the mailing was sent to the U.S. Patent & Trademark Office in that applicant had no concept or notion that the restriction and election was not received by the U.S. Patent & Trademark office until Examiner Avery raised the "abandonment" issue in a September 2005 telephone conference with applicant, while discussing one of Applicant's other pending applications.
7. Applicant notes that he has numerous United States patents actually granted, and numerous applications presently pending, and that there has

never before been a failure to file a required document. Applicant contends that the failure to respond was completely unintentional and only occurred under the mistaken impression by applicant that the document was filed with the United State Patent & Trademark office and actually was being considered by Examiner Avery.

8. Applicant's practice as of April 2005 was to only file registered or certified mail for United States Patent initial applications. Applicant did not file routine amendment or election documents by certified, registered or express mail.
9. Applicant has been unable to locate any requirement under the code of federal regulations or the MPEP which makes registered, certified or express mail filings mandatory.
10. For all the foregoing reasons, applicant/petitioner moves the United States Patent & Trademark office to revive the relevant pending underlying application.
11. Applicant will be pleased to provide any additional information requested and can be reached at (757) 460-7776.

Respectfully submitted,

Date: Oct 21, 2005

  
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#### MAILING CERTIFICATION

I hereby certify that the foregoing application is being mailed certified mail via the U.S. Postal System on October 21, 2005.

  
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Richard N. Shapiro